CF0000059996

Cr.A 1192/98 (2) (20)

S.T. No. 64/93

APPEAL PRISONER

Division Bench (Criminal)

No. 740 Name चैतु राम

Father's Name भोटकु @ भोकलु Resident ग्राम - डुसागट्टा
थाना - आमावेड़ा, अन्तागढ़

Age 55 Sentenced to आजीवन कारावास on 9.10.96

Under Section 302, भा० दं० वि० by अति० सत्र न्याया० कांकेर

It is explained to the prisoner that if he states or wishes to be represented by a legal practitioner the Appellate Court will not proceed with the base for seven days unless the legal practitioner appears If the legal practitioner does not appear within seven days he may be heard at all if legal practitioner the court may proceed at once with the case and will not be obliged to give a bearing to any legal practitioner who should appear.

1. Date of application for copy of Judgement :- No.
2. Date of which copy received :- 13.10.96
3. Date on which appeal sent :- 6.11.96
4. Whether the prisoner wished to be represented or not :- Yes / No.

No. 740 Name चैतुराम पिता भोटकु @ भोकलु

Continued in जिला Jail जगदलपुर

No. 468/अटेस्टेशन Dated 6/11/96

Forwarded to the CHIEF JUDICIAL MAGISTRATE Jagdalpur.

together with a copy of Judgement or order passed in the case for favour of transmission to the proper Appleate Court.

5-11-96
Superintendent
Superintendent-Central / Distt. / Sub-Jail.
District Jail, Jagdalpur

Date of receipt in C. J. M. Office. 15.11.96 (with in time)

Date of receipt of record to accompany. —

Memo of Appeal of the Appellate Court. —

No. 19117 dated 18.11.96

Forwarded to the Hble Sessions Judge Jagdalpur

C. R. MAGISTRATE

मुख्य न्यायिक दण्डाधिकारी
जगदलपुर

Date of receipt in Applicate Court

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr.A No 1192/98 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Division Bench:-

Hon'ble Shri L. C. Bhadoo and
Hon'ble Shri Dhirendra Mishra, JJ.

1-3-2006

Shri B. D. Badgaiyya, counsel for the appellant.

Shri U.N.S. Deo, Additional Public Prosecutor with Shri M.P.S. Bhatia, Panel Lawyer for the State/respondent.

Oral judgment dictated on *Dais*.

Per L. C. Bhadoo J

By this appeal under Section 374 (2) of the Cr.P.C. accused/ appellant Chaituram has questioned the legality and correctness of the judgment of conviction and order of sentence dated 8th October 1996 passed by learned Additional Sessions Judge, Kanker in S.T. No.64/93 whereby learned Additional Sessions Judge after holding the accused/ appellant guilty for commission of offence under Section 302 of the I.P.C., sentenced him to undergo imprisonment for life.

Case of the prosecution, in brief, is that PW-5 Lachchan Singh, co-brother of accused Chaituram gave a merg intimation (Ex.-P/6) to the Police Chowky Amabada to the effect that on 13-8-92 at about 11-12 mid day his co-brother Chaituram came to his house to attend feast arranged by him. One hour thereafter, Lachchanteen Bai, wife of Chaituram, came and after some time his son-in-law and daughter Dukli Bai came. When Chaituram and others were taking their meal, Lachchanteen Bai was sitting in a separate room. Chaituram and he consumed liquor before taking meal. Chaituram after taking meal went to the room where Lachchanteen Bai was sitting and attacked with axe, as a result of which she fell down on the ground and died. Chaituram

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आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

ran away. On hearing the sound, they went inside the room and saw that Lachchanteen Bai was lying dead. Based on this merg intimation First Information Report Ex.-P/5 was registered. Thereafter, the Investigating Officer left for the scene of occurrence and took into possession iron axe. After giving notice Ex.-P/8 to the Panchas, Panchanama Ex.-P/10 of the body of Lachchanteen Bai was prepared. The dead body of the deceased was sent for the postmortem examination to the Primary Health Centre, Antagarh where Dr. Ms. Gunjana Pathariya conducted the postmortem on the body of the deceased and prepared the postmortem report Ex.-P/1. The Investigating Officer prepared the site plan Ex.-P/2.

After completion of the investigation, charge sheet was filed against the accused in the Court of Additional Chief Judicial Magistrate, Bhanupratappur for commission of offence under Section 302 of the I.P.C. who in turn committed the case to the Sessions Judge Jagdalpur from where learned Additional Sessions Judge, Kanker received the case on transfer for trial.

The prosecution in order to establish the charge against the accused examined 7 witnesses. Statement of the accused was recorded under Section 313 of the Cr.P.C. in which he denied the material appearing against him and stated that he himself went to the police station to inform that he has not committed the crime. The witnesses are liar and he is innocent.

Learned Additional Sessions Judge after hearing arguments of learned counsel for the parties, convicted and sentenced the accused as mentioned in para-1 of this judgment.

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आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

We have heard learned counsel for the parties.

The homicidal death of Lachchanteen Bai is not in dispute.

Learned counsel for the accused/appellant argued that in this case there is no eyewitness and there is no Forensic Science Laboratory or Serologist's report that there was a human blood on the axe, weapon of offence.

We have perused the prosecution evidence. PW-5 Lachchan who lodged the report in the Police Chowky Amabada has stated that on the fateful day there was feast at his residence. The accused, his wife Lachchanteen Bai, his daughter Dukli Bai and son-in-law Murharam also came to attend the feast. The accused is his co-brother. Lachchanteen Bai was sitting in a separate room. The accused consumed liquor and thereafter he was taking his meal. All of a sudden, he stood up and carrying axe went to the room of Lachchanteen Bai and attacked her with axe, on which Lachchanteen Bai raised scream "Oh Dai", on which they went inside the room and his wife Lachcho Bai snatched the axe from the accused but he ran away. There was injury on the neck of the deceased caused by axe. Lachchanteen Bai was lying flat on the ground and blood was oozing out of the injury. Thereafter, he went to the Police Chowky Amabada and lodged the report. PW-6 Dukli Bai, daughter of the accused, has corroborated the above evidence. From the evidence of these 2 witnesses it is established that these 2 witnesses, accused and the deceased, all were at one place. When the accused attacked the deceased with axe, they immediately reached on the spot and saw that the deceased was lying in injured condition. Even axe, weapon of offence, was snatched by Lachcho Bai, wife of Lachchan

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..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

and sister of the deceased and blood was oozing out of the injury. In their cross-examination, the defence has not been able to elicit any circumstance, which makes the evidence of these witnesses untrustworthy. Their evidence further corroborated from the fact that the accused went to PW-2 Sangram and made extra judicial confession before him that he has murdered his wife and to that aspect, this witness has not been cross-examined. This evidence further corroborated by the medical evidence of PW-1 Dr. Ms. Gunjana Pathariya who has stated that on 17-8-92 she conducted the postmortem on the body of the deceased and noticed that there was a stab wound on the neck 3" below the occipital region. The injury was in oval shape in the size of 2 ½" x 2" x 3 ½". Cervical vertebra in between 1st and 2nd vertebra with underneath cervical cord was cut. The deceased died on account of asphyxia due to cutting of cervical cord. Therefore, from the ocular evidence, extra judicial confession and the medical evidence, it is established that the accused was author of crime in question. The manner in which with the deadly weapon like axe, that too on the vital organ i.e. on the neck the accused attacked, as a result of which cervical cord was cut and the deceased died as a result of asphyxia, therefore, intention of the accused to cause death of the deceased is also established.

In the result, we do not find any illegality or infirmity in the judgment of the trial court. The appeal being devoid of any merit is liable to be dismissed and it is hereby dismissed.

Sd/-
L.C. Bhadoo
Judge

Sd/-
DHIRENDRA MISHRA
Judge

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24/3/06